

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

FIP REALTY CO., LTD,

Plaintiff,

v.

INGERSOLL-RAND PLC ET AL.,

Defendants.

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Case No. 2:19-cv-03291

CHIEF JUDGE ALGENON L. MARBLEY

Magistrate Judge Elizabeth P. Deavers

ORDER

On March 1, 2021, this Court issued an Opinion and Order that granted in part and denied in part Defendants’ motion for summary judgment (“Summary Judgment Opinion”). (ECF No. 39). Specifically, the Court denied summary judgment on: (1) Plaintiff’s contribution claim under Section 113(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA”); and (2) Plaintiff’s claim under the Ohio Voluntary Action Program. After this Court issued its summary judgment ruling, the Supreme Court published its opinion in *Territory of Guam v. United States*. 141 S.Ct. 1608 (2021). In *Guam*, the Supreme Court held that “[a] settlement of environmental liabilities must resolve a CERCLA-specific liability to give rise to a CERCLA contribution action under § 113(f)(3)(B).” *Id.* at 1609. Accordingly, this Court **ORDERS** the parties to submit simultaneous briefing as to whether the Court must reconsider any part of its earlier opinion because of the *Guam* decision.


Additionally, in the Summary Judgment Opinion, this Court also held in abeyance the resolution Plaintiff’s claim for declaratory judgment under Section 113 of CERCLA until the parties filed supplemental briefing. This Court directed the parties to “address liability for and

allocation of future response costs, both in terms of constitutional and prudential ripeness. They should also address the degree to which FIP's claims for future costs satisfies the elements of a prima facie case." (ECF No. 39 at 13). The parties have not yet submitted any such supplemental briefing. Thus, the Court also **ORDERS** the parties to include briefing on these issues.

Counsel shall submit simultaneous briefing on the extent to which the *Guam* decision impacts the Summary Judgment Opinion and on the outstanding declaratory judgment issues, as described above. Opening briefs are to be submitted by August 9, 2021. Any reply briefs shall be submitted by August 16, 2021.

Finally, on March 23, 2021, Defendants moved to stay this case until after the Supreme Court issued its decision in the *Guam* case. (ECF No. 41). This motion is hereby **MOOT**.

IT IS SO ORDERED.


ALGENON L. MARBLEY
CHIEF UNITED STATES DISTRICT JUDGE

DATED: July 26, 2021